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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,760	09/10/2003	Thomas L. C. Simpson	3712044.01151	4834
29200	7590	09/02/2010	EXAMINER	
K&L Gates LLP P.O. Box 1135 Chicago, IL 60690-1135			NGUYEN, HIEP VAN	
			ART UNIT	PAPER NUMBER
			3686	
			NOTIFICATION DATE	DELIVERY MODE
			09/02/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

### Office Action Summary

**Application No.**

10/659,760

**Applicant(s)**

SIMPSON ET AL.

**Examiner**

HIEP NGUYEN

**Art Unit**

3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 and 58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 and 58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1- 53, and 58 have been examined. Claims 1, 18, 33 and 44 have been amended. Claims 54-57 have previously been canceled. No new matter has been added.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/07/2010 has been entered.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. In particular, the phrase *"an input" in the limitation "wait a predetermined amount of time for an input"* in claims 1, 18, 33, 44 renders the claims indefinite

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 13-25, 29-50, and 58 are rejected under 35 U.S.C.103(a) as being unpatentable over Causey, III et al. (US. 6,641,533.) in view of De La Huergo (US. 20020038392).

6. With respect to Claim 1, Causey, III et al. teaches a system for reporting on integrity of a wireless communication link within a healthcare facility comprising:

a module associated with a medication treatment application device, the module having a status information output responsive to a signal output generated by the medication treatment application device ('533; Col./line 2/25-3/10; Col. 8, lines 30-37; col./line 25/18-26/40);

Causey, III et al. further discloses the communication between the medical device module and the infusion device is wireless, does not explicitly disclose a wireless remote device within the healthcare facility having a message indicator responsive to the status information output transmitted over the wireless communication link and representative of the signal generated by the medication treatment application device

De La huergo discloses a wireless remote device within the healthcare facility having a message indicator responsive to the status information output transmitted over the wireless communication link and representative of the signal generated by the medication treatment application device ('392; Paras 0197, 0200, 0223-0224, 0296) , the software configured to:

wait a predetermined amount of time for an input ('392; Paras 0325-0327), and generate a time-output that indicates loss of the wireless communication link when the input is not received within the predetermined amount of time ('392 ; Para 0041, 0221).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the capability for controlling medication delivery and monitoring as taught by De La Huergo ('392; Abstract) using a medical device module as taught by Causey, III et al. ('533; Abstract) and the combination would have yielded predictable results.

Claims 18, 33, and 44 are rejected as the same reason with Claim 1.

7. With respect to Claim 2, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the association between the module and the medication treatment application device results in at least some data within the status information output passing through the module ('180; Col. /line 5/64-6/3.)

Claims 19 and 34 are rejected as the same reason with Claim 2.

8. With respect to Claim 3, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the medication treatment application device is an infusion pump for administering an infusion to a patient ('533; Col. 26, lines 25-40)

Claims 20 and 35 are rejected as the same reason with Claim 3.

9. With respect to Claim 4, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the output generated by the medication treatment device includes data related to an alarm condition ('533; Col. 13, lines 21-23.)

Claim 21, 36, and 45 are rejected as the same reason with Claim 4.

10. With respect to Claim 5, the combined art teaches the system of claim 1.

De La Huergo discloses further wherein the output generated by the medication treatment device includes data related to an alert condition ('392; Paras 0328-0329.)

Claims 22, 37 and 46 are rejected as the same reason with Claim 5.

11. With respect to Claim 6, the combined art teaches the system of claim 1.

Causey, Illet al. discloses further wherein the output generated by the medication treatment device includes data related to an infusion volume rate ('533; Col. 15, lines 51-55).

Claims 23, 38 and 47 are rejected as the same reason with Claim 6.

12. With respect to Claim 7, the combined art teaches the system of claim 1, De La Huergo discloses further wherein the output generated by the medication treatment device includes data related to time remaining before an infusion bag is emptied ('392; Para 0215: querying associated pumps).

Claims 24, 39, and 48 are rejected as the same reason with claim 7.

13. With respect to Claim 8, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the wireless remote device is a personal digital assistant ('533; Col./line 25/31-26/40.)

Claims 41 and 49 are rejected as the same reason with Claim 8.

14. With respect to Claims 9, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the wireless communication link operates within a radio frequency ('533; Col. 19, lines 16-31).

Claims 25 and 50 are rejected as the same reason with Claim 9.

15. With respect to Claim 13, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the message indicator is an audible alarm ('533; Col. 23, lines 12-24).

Claim 29 is rejected as the same reason with Claim 13.

16. With respect to Claim 14, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the message indicator is a visual display ('533; Col. 15, lines 43-65.)



17. With respect to Claim 15, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the audible alarm produces an audible sound in response to the time-out output ('533; Col./line 13/61-14/7.)

Claims 30, 40 are rejected as the same reason with Claim 15.

18. With respect to Claim 16, the combined art teaches the system of claim 14.

Causey et al. disclose further wherein an icon responsive to the time-out output is provided on the visual display ('533; Fig 24: time output).

Claims 31, 42 are rejected as the same reason with Claim 16.

19. With respect to Claim 17, the combined art teaches the system of claim 14.

Causey, III et al. discloses further wherein a pop-up window is provided on the visual display in response to the time-out output ('533, Figs. 24 pop-up window showing time).

Claim 32, 43 and 58 are rejected as the same reason with Claim 17.

20. Claims 10-12, 26-28, 51-53 are rejected under 35 U.S.C.103(a) as being unpatentable over Causey, III et al. (US. 6,641,533.) in view of De La Huergo (US. 20020038392), and further in view of Heinonen et al. (US. 6,795,421).

21. With respect to Claims 10, 11, 12, the combined art does not disclose wherein the radio frequency is within the 2.4 gigahertz band, and within the 2.45 gigahertz band, and within the 5 gigahertz band. However, this is well known in the art as evidenced by Heinonen et al. ('421).

Heinonen et al. discloses wherein the radio frequency is within the 2.4 gigahertz band, and within the 2.45 gigahertz band, and within the 5 gigahertz band ('421; Col. 1, lines 10-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the range of frequencies as taught by Heinonen et al. into the teachings of De La huergo./Causey, III et al. for communication between wireless and medical devices.

Claims 26-28, 51-53 are rejected as the same reason with Claims 10, 11, 12.

### ***Response to Arguments***

22. Applicant's arguments with respect to claims 1-53, 58 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEP NGUYEN whose telephone number is (571) 270-5211. The examiner can normally be reached on full.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 5712726787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/H. N./  
Examiner, Art Unit 3686

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
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